



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Color Country District Office

Cedar City Field Office

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In Reply Refer To:

UTC01

3809: UTU-89547

5/001/0038
cc: peter

March 19, 2013

CERTIFIED MAIL #7005 3110 0003 0958 9498
RETURN RECEIPT REQUESTED

RECEIVED

MAR 22 2013

Mr. Steve Gale
P. O. Box 855
Beaver, UT 84713

DIV. OF OIL, GAS & MINING

RE: Special Provisions for Operations which May Involve Common Variety Minerals
and Request for Information

Dear Mr. Gale:

A plan of operations, serialized as UTU-89547, was filed with the Cedar City Field Office on March 11, 2013 to re-authorize commercial mining operations to recover an alleged uncommon variety of stone, Picasso marble. The plan would supersede and expand upon a pre-2001 notice, our file UTU-72221, which expired on January 22, 2013. The plan of operations has been filed under the Federal regulations at 43 CFR § 3809, covering the surface management of mining claims. The proposed plan disturbances are located within T. 29 S., R. 9 W., sec. 29, Beaver County, Utah.

The stone involved in the proposed re-authorization may be a common variety stone. When the stone may be a common variety, special provisions apply to the processing of the plan of operations as required at 3809.101.

Procedures for Plans of Operations Involving Possible Common Variety Minerals

The federal regulations at 3830.11 and 12 provide the framework for determining whether a mineral is locatable: locatable minerals must be subject to the general mining laws and certain varieties of mineral materials, such as clay, are locatable if have distinct and special value. Distinct and special value is required by the Act of July 23, 1955 (69 Stat. 368; 30 USC 611), and the standards for determining distinct and special value are addressed in *McClarty v. Secretary of the Interior*, 408 F.2d 907 (9th Cir. 1969). Plans of operations for locatable minerals, i.e. uncommon varieties, are properly processed under the regulations at 3809. If the minerals are salable, i.e.

common varieties, then the minerals are disposed through a sale contract with the BLM.

As required at 3809.101(a), you must not initiate operations under the mining laws for minerals that may be common varieties, until BLM prepares a mineral examination report. The mineral examination and the associated report are subject to processing fees as required at 3800.5 and 3000.11. The processing fee would be estimated for the costs of preparing the mineral examination report of this specific deposit, and you would be afforded an opportunity for review, prior to being required to deposit the monies. The regulations at 3809.101(b) allow for an interim authorization, where under the specified conditions, BLM may allow notice-level operations or approve a plan of operations. The approval of a plan of operations as an interim authorization for production requires the establishment of an escrow account with regular payments for the removal of possible common variety minerals. Prior to establishing an escrow account, the processing fee would include the cost of an appraisal for determining the fair market value of the possible common variety mineral.

If a mineral examination report is necessary to determine whether the mineral is a common variety and if the conclusion in that report is the mineral(s) is a common variety, you may relinquish the mining claim(s) or BLM will initiate contest proceedings against the disputed mining claim(s). Upon relinquishment or a final departmental determination that the mining claims is null and void, you would be required to promptly close and reclaim any operations under an interim authorization, unless you are authorized to proceed under 3600 and 3610. Monies in an escrow account would be disbursed to the U.S. If the conclusion in the mineral examination or if the final department determination is the mineral(s) is an uncommon variety, you would be allowed to conduct operations under the mining laws and monies in an escrow account would be disbursed to the payer.

Mining Claims Located On or After July 23, 1955

Your proposed operations involve unpatented, mining claims located after the date of the July 23, 1955 Act. Operations on a "post-1955" mining claim are subject to the special provisions of 3809.101.

Request for Information

At this time, BLM requests information from you before deciding whether a mineral examination report is required under 3809.101. As you have been mining at the site under the previous, now expired notice, information on the characteristics of the mineral, mining and processing costs, and market information for this specific deposit will be pertinent to determining whether the mineral is a common or uncommon variety. Information that would address the following questions:

1. What sampling, testing, grade control, and/or mining have been completed on the deposit?
2. What unique property is present in this deposit?
3. What distinct and special value does this deposit have?
4. What is the sale price(s) of this deposit?
5. What other market data may demonstrate distinct and special value?
6. How does this deposit compare to other such deposits?

7. Are there reduced costs for mining and/or processing, based on an inherent, unique property?

Basically, information is requested that will address the *McClarty* criteria at 3830.12.

Also, as a clarification, this request is not for general information about stone for lapidary and sculpting markets. This request is for information specific to this deposit that will demonstrate whether this stone will meet the *McClarty* standards for being an uncommon variety mineral. The information should be based on testing, sampling, mining and processing, and marketing specific to this deposit. Please refer to the regulation at 3809.111 for your responsibility to identify information that you consider to be proprietary.

Mineral Material Disposal

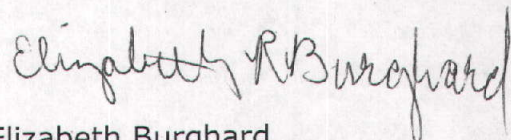
If the mineral is not a locatable mineral, then the deposit may be mined as a salable mineral through a contract sale with the BLM as addressed at 43 CFR § 3600. Any authorization under this subpart requires compliance with NEPA as a federal action, an appraisal of fair market value of the mineral, payment for the mineral removed, and posting of bond for reclamation. Additional information with respect to a mineral material sale may be obtained from this office.

Summary

Before BLM will approve the plan of operations as filed under the regulations at 43 CFR § 3809, BLM will need to determine whether the mineral is a locatable mineral and subject to approval as an operation under the mining laws. The procedures for this determination require a mineral examination report under 3809.101 with requirements for a processing fee and provisions for an interim authorization, while that report is being completed. The processing fee is estimated on a case-by-case basis. You are being allowed an opportunity to provide data as to the characteristics of and the market for this mineral deposit to assist BLM in determining whether the mineral examination report is required.

If you have any questions, please contact Ed Ginouves, Minerals Specialist, Cedar City Field Office at (435) 865-3040 or Michael Jackson, Geologist, Utah State Office, at (435) 896-1522.

Sincerely,



Elizabeth Burghard
Field Office Manager

cc: Michael Jackson, UTC020
Peter Brinton, DOGM (Anval Project, S/001/0038)